

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

TINA E. STAPLES

§

VS.

§

CIVIL ACTION NO. 6:08cv206

COMMISSIONER,
SOCIAL SECURITY ADMINISTRATION

§

ORDER ADOPTING REPORT AND RECOMMENDATION

The Court referred the above-entitled and numbered civil action to United States Magistrate Judge Judith K. Guthrie. The Magistrate Judge presented for consideration the Magistrate Judge's Report, containing proposed findings of fact and a recommendation that this Court dismiss this case for failure to prosecute the case and failure to serve summons on Defendant.

Plaintiff filed objections stating that in this *in forma pauperis* case the United States Marshall assumed responsibility for serving the summons and that two summons were served. Plaintiff says that on July 23, 2008, a clerk in the clerk's office investigated and said that apparently there was an error in the process, and he would reissue summons before the deadline. The docket sheet shows that summons were reissued and e-mailed to Plaintiff's attorney on July 23, 2008.

This Court's Order granting Plaintiff's application to proceed *in forma pauperis* orders "that the Clerk shall issue and Plaintiff shall serve summons" Plaintiff, not the United States Marshall, had the responsibility to serve summons on Defendant. Although Plaintiff's objections state that two summons were served, Plaintiff has provided the Court no record that summons was

served, and Defendant has not filed an answer.

This Court has made a *de novo* review of Plaintiff's objections and determined that the objections lack merit. This Court finds that the Magistrate Judge's findings and conclusions are correct and adopts them as the Court's findings and conclusions. The Court therefore

ORDERS, ADJUDGES, and DECREES that this action is **DISMISSED** without prejudice;
and

ORDERS that all motions not previously ruled on are denied.

SIGNED this 17th day of December, 2008.



MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE